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C O N F I D E N T I A L SECTION 01 OF 05 KATHMANDU 000448

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SUBJECT: CA ELECTION: WHAT IT MEANS FOR NEPAL

Classified By: Ambassador Nancy J. Powell. Reasons 1.4 (b/d)

Summary

1. (C) In the wake of Nepal's April 10 Constituent Assembly (CA) election, the Maoists have become the strongest political force in the country. A large and diverse Assembly, in which the Maoists will have a plurality, will draft a new constitution. As its first act, the CA will abolish Nepal's 240-year-old monarchy and declare Nepal a republic. The shape of Nepal's new government is not yet decided, but the Maoists will likely dominate it. The Maoists will probably lay claim to the most powerful cabinet posts, including Prime Minister, Defense and Home. From that vantage point they will be in a good position to promote integration of the Maoist People's Liberation Army into the Nepal Army. We also anticipate a new inclusiveness in government. A potentially hostile Madhesi belt between India and Kathmandu will, however, limit the Maoist ability to execute its program.

Change Is Here

2. (C) Ten million Nepalis went to the polls on April 10 to elect a long-awaited Constituent Assembly (CA). For the first time in nine years, Nepal has held a general election. It was not free and fair -- the pre-election violence and irregularities, mostly by the Maoists, saw to that -- but it has been generally accepted. Chief Election Commissioner Bhoj Raj Pokhrel told the Ambassador April 17 that the Election Commission (EC) expects to announce the final results from both the 240 first-past-the-post (FPTP) races and the proportional representation (PR) contest on April 22 or 23. (Note: These dates presumably exclude the five constituencies where by-elections will be necessary. End note.) The parties will then need to select their pro rata share of the 335 PR candidates from the lists they submitted, keeping in mind the various quotas. The CA is required to meet 21 days after the EC announces those elected under the PR system. According to the General Secretary of the Interim Parliament, Manohar Bhattarai, the Assembly will probably have its first session the week of May 26. The Interim

Parliament will be automatically dissolved when the CA meets.

#### Maoists Now the Dominant Political Force

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¶3. (C) While we do not yet know the final vote count, the Maoists are projected to win 124 of the FPTP races and 111 of the PR seats. This translates into a total of 235 of the Assembly's 575 elected members. This puts them far ahead of what is likely to be their closest rival, the center-right Nepali Congress, which has dominated Nepal's politics since even before the first People's Movement in 1990 ushered in Nepal's democratic era. The NC will probably have to settle for around 111 seats. The country's second most important party, the center-left Communist Party of Nepal - United Marxist Leninist (UML), is expected to fall into third place, with roughly 106 seats. Any delusions that NC or UML had about political parity with, let alone supremacy over, the former Maoist insurgents have been destroyed. The Maoists continue to be only party which has its own army (the People's Liberation Army or PLA). In addition, they have a youth wing at their disposal, the Young Communist League (YCL), whose size and power far outweigh its NC and UML counterparts. Finally, they have proven in the election that they possess a superior ability to mobilize Nepali people -- whether by fear or favor -- for their ends.

#### Assembly to Be Large, Diverse and Largely Maoist

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¶4. (C) The new Assembly will consist of 601 members. It will be much larger than any parliament the Nepalis have ever

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known. Even combined the lower and upper houses of the 1991-2003 Nepali parliaments consisted of 255 members. The Interim Parliament established in January 2007 had 328 members. The CA will also be more diverse than any previous Nepali legislature. We know that at least 26 women or 11 percent have been elected on the FPTP side. This compares with 12 women or 6 percent elected in 1999 from among the 205 popularly elected MPs in the lower house. But women are not the only group which will enjoy better representation in the new body. Indigenous nationalities, Madhesis, Dalits and other disadvantaged groups will see their absolute and relative numbers rise. Much of this diversity will be thanks to the Maoists who should enjoy a comfortable plurality in the 601-member chamber. (Note: The post-election cabinet is expected to appoint the final 26 CA members.)

#### CA To Abolish Monarchy

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¶5. (C) As its name implies, the Constituent Assembly's primary purpose is to draft a new constitution (although it will also serve as the country's legislature). But that will likely be a long and laborious task. The Interim Constitution, which was promulgated in January 2007, sets forth a complicated, consensual process. And there is ultimately no guarantee that the parties will agree on a new constitution within the two (and a half) year deadline. We can easily envision the debates over what federalism means or what sort of executive -- presidential, prime ministerial or a mix of both -- Nepal is going to adopt taking months. Even amending the Interim Constitution is not simple. It requires a two-thirds majority of all members, which the Maoists will not have. What we can say with confidence is that Nepal 240-year-old Shah dynasty will be abolished. The vote and the declaration of a republic is supposed to be the CA's first order of business. And with the exception of the Rastriya Prajatantra Party-Nepal, which is projected to win 4 PR seats, there is no party to rescue King Gyanendra and his clan. The monarchy has been largely powerless since April ¶2006. The restored Parliament in May 2006 proclaimed that Nepal was no longer a kingdom and the Interim Constitution confirmed that status. But this will be its true end.

16. (C) No one knows for sure what the new Government of Nepal will look like. It is possible, even if, as we are told, that is not the Maoists' preference, that they will find themselves heading a minority government. The UML did this from 1994 to 1995. At a minimum, the Maoists should be able to form a coalition with the small, leftist People's Front Nepal (PFN). PFN agreed to an electoral alliance with the Maoists and has long been seen as the Maoists' closest ally within the governing Seven-(later Six-) Party Alliance. It is projected to win 7 seats. At the other end of the spectrum would be an all-party unity government. The latter seems less likely than the former. Leaving policy conflicts aside, 22 parties could end up sitting in the CA. Several major party leaders claimed before April 10 that an all-party unity government was their intention, but that was before the Maoists' electoral earthquake. We know that the Maoists have been reaching out to the NC and the UML. Those two parties, meanwhile, are not sure what to do. Per a participant, an informal meeting of the NC's Central Committee April 17 recommended to the party leadership to stay out of government and go into opposition. Some prominent UML leaders apparently share that view as well. The Maoists seem to be anticipating that they may have trouble attracting coalition partners. Maoist chief Pushpa Dahal (aka Prachanda) has indicated privately that he is prepared to fill at least certain positions (e.g., the Central Bank Governor) with technocrats.

But Certainly Maoist

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17. (C) One idea we are not hearing is that the NC and UML intend to combine forces with the Madhesi parties and others to form an anti-Maoist government coalition. It is theoretically possible. Based on projections, the Madhesi People's Rights Forum's 37 seats would suffice to give an NC-UML-MPRF troika 254 seats and a 19-seat advantage over the Maoists. Various combinations of additional parties could give the troika the 288 seats for a simple majority of the CA's elected seats. For example, incorporating the other two United Democratic Madhesi Front parties (Terai-Madhes Democratic Party or TMDP and Sadbhavana Party or SP), the SP's precursor party (NSP-A) (which in the governing alliance) and the non-royalist Rastriya Prajatantra Party of Pushapati Rana should be enough to do the trick if projections prove accurate. What the theory fails to take into account, however, is the reality that the Maoists won -- fairly or not -- the largest share of the vote. They can at least claim the moral authority to have the first opportunity to form a government. And we anticipate the other parties will eventually concede that point. In a sense, NC, UML, et al. have already done so by not contesting the overall outcome.

Continuation of the Six-Party-Plus-Maoist Alliance

18. (C) Unlike traditional Westminster-based governments, the current Government of Nepal's (GON's) existence is not derived from the legislature. The Interim Constitution provides in Article 38 that the cabinet shall be formed on the basis of a "political understanding." Political understanding is defined as the 12-Point Agreement seven (now six) parties signed with the Maoists in New Delhi in November 2005. That agreement laid the foundation for the April 2006 People's Movement, the peace process, and ultimately, the CA election. Whether Article 38, which is highly undemocratic, will now be amended is not yet clear. Prime Minister (and NC President) G.P. Koirala has stated that he hopes the governing alliance will continue. C.P.

Mainali, who is head of one of the minor governing parties -- the Communist Party of Nepal - Marxist Leninist -- indicated April 18 to Emboff that he too hoped the alliance would go on. He admitted, however, that the arrangement might have to be adjusted to include the Madhesi parties.

#### Maoists Could Covet "Power" Ministries

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¶9. (C) Assuming the Maoists do form the post-election government, we expect them to insist on the so-called "power" ministries. The party's top brass have already staked a claim on the prime ministership and we foresee demands for the defense and home ministries following. Prior to joining the Interim Government in April 2007, the Maoists sought the latter two. As the single largest party this time around, it will be difficult to deny the Maoists any of the three. The Defense Ministry, with only one brief exception in Nepal's democratic history, has gone only to the Prime Minister. It is has never been held by someone outside the PM's party. The leading party has also traditionally named a Home Minister from among its ranks. Some observers presume the Maoists will seek the Foreign Ministry as well. Others figure the Maoists will give that post to someone less likely to ruffle feathers in foreign capitals. The Finance Ministry is another potential Maoist target because of its control of the public purse and donor assistance -- if a credible nominee can be found. The Maoists have found the Information Ministry and its control over Nepal's public media to be a useful tool so far. We suspect they will try to hold on to it. Finally, from among its other four ministries, Local Development could make the cut. Pushapati Rana informed the Ambassador that April 16 that the Maoists are probably planning for required local government elections. Local Development plus Home, which controls the police, would give the Maoists enormous influence over the outcome.

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#### Nepal Army Wary

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¶10. (C) With the exception of the monarchy, the domestic institution that may fear a Maoist victory the most is the Nepal Army. Two years ago, the NA was fighting a war against the PLA. While the two armies have not engaged in any clashes since the cease-fire in May 2006, they have come close several times, including days before the CA election. NC leader Prakash Sharan Mahat confided to Emboff April 17 that in hindsight it had been a mistake to defer the question of integrating the PLA into the NA until after the CA election. He feared that a Maoist Defense Minister would be able to integrate the PLA on Maoist terms because the Maoists would control both. We are not convinced that the Maoists will have carte blanche. The Indians should prevent that. But Prachanda (who continues to be the commander of the PLA) and his comrades will attempt to transform the institution. That has long been a stated objective. Chief of Army Staff Rookmangut Katawal will presumably be the first to go. If the Maoists take over the Home Ministry, they will purge the top ranks of the ministry as well as the Nepal Police (NP) and the Armed Police Force (APF). Other parties have done the same at the outset. One unanswered issue will be the effect of PLA combatants joining the NA -- and perhaps YCL joining the APF or the NP -- on the availability of Nepali security forces for peacekeeping operations.

#### Inclusive Government

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¶11. (C) Another likely Maoist objective -- and one the U.S. could welcome in principle -- would be creating a more inclusive bureaucracy. Especially in the senior ranks, Nepal's civil service is commonly the domain of male, "pahadi" (hill-origin) Brahmins/Chhetris. Widespread anger about deep-rooted discrimination against marginalized groups,

including women, indigenous nationalities, Madhesis and Dalits, was one of the driving forces behind the 10-year Maoist insurgency and the 2007 Madhesi Uprising. The question will be how the Maoists go about it. Will they use legal means or will they employ extrajudicial methods? The Maoists will probably push as well for other issues close to them -- such as dealing with disappearances, at least by the state, and compensating Maoist supporters who suffered from abuses by the security forces.

Madhesis May Not Go Along  
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¶12. (C) Since at least 2006 it has been the Maoists who have driven the political debate in Nepal. The only force to seriously challenge them, beginning in 2007, has been the Madhesis. The Madhesis demonstrated, as recently as February 2008, that they had the power to cut Kathmandu off from India. The leader of the strongest of the Madhesi parties -- Upendra Yadav of the MPRF -- has not ruled out cooperating with the Maoists. (Note: Yadav was himself a Maoist for a time. End Note.) But the Madhesi animosity toward the Maoists is legendary. If a Maoist-led government fails within a reasonable time to begin to fulfill the promises that PM Koirala made to the United Democratic Madhesi Front parties in February, the Maoists will face serious trouble. Residents of the capital would probably welcome a government that enforced the oft repeated prohibition on general strikes and transportation blockades. The more difficult question would be whether the Maoists could bring the Madhesis in line without excessive violence and bloodshed.

Comment  
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¶13. (C) The Nepali Congress and the UML have not yet decided if they will participate in a new Maoist-dominated government. The parties themselves will have to make the

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final decision, but we are not sure that their going into opposition will serve Nepal well. It would be shortsighted for them to stay away if their hope is that thereby the Maoist government will fail and they will be able to step in.

It is also not the time for the Congress and the UML to look back and endlessly rehash what went wrong on April 10. If they are going to contribute to solving the serious issues that Nepal faces, they need to look forward.

POWELL